Written Testimony Submitted By

Kentuckians for Better Transportation (KBT)

Before The

Governor's Blue Ribbon Task Force on Tax Reform

August 21, 2012

Lexington, Kentucky

Lt. Governor Abramson.....

Ladies and Gentlemen of the Blue Ribbon Task Force on Tax Reform......

I am Stan Lampe, and tonight I am here representing Kentuckians for Better Transportation, or KBT for short. KBT is a 34-year old statewide association that supports improvement in all modes of transportation within the Commonwealth, including air service, rail, waterways, public transit and streets, roads, highways and bridges.

We appreciate the opportunity to submit formal comments to the Governor's Blue Ribbon Task Force on Tax Reform. We understand the original charge of the Task Force did not necessarily anticipate including the Road Fund and taxes that contribute to the Road Fund. However, KBT believes it is important that we bring to your attention a couple of issues that continue to impact the strength of the Road Fund, and its ability to fund Kentucky's highway program.

These issues include the potential benefits, but inconsistency created by the statutory index on the motor fuels excise fee; the increased bonded indebtedness over the past several years; the trend downward in the number of taxable gallons sold; and, the rise in alternative fuel vehicles, such as all-electric cars, not to mention vehicles that will be fueled by hydrogen, natural gas, and even compressed air. We address each of the issues below and respectively submit for your consideration.

The Statutory Index—Motor Fuels Excise Fee

While the Road Fund has remained strong and actually grown through this most recent recession, the growth is not necessarily sustainable. The indexed portion of the motor fuel excise fee has caused the user fee to rise by a penny plus each year since 2004 and in 2011 grew by 2.1 cents. At 30 million dollars per penny, that is a sizeable increase in the fund over the past 8 years.

The index in the motor fuel excise fee was enacted in 1980 as a way to allow the fee to rise as the cost of gasoline rose. The original statute provided for the motor fuel excise fee to be 10% of the average wholesale price (AWP) and a floor was established at $1.11 per gallon. As the AWP rose over the $1.11

per gallon, the fee could increase by no more than 10% in any 12 month period. The statute also provides for the fee to fall if the AWP fell back below the amount that was used to calculate the increase.

Prices were rising at the time the statute was enacted and it was believed that within several years the $1.11 threshold would be reached and it was envisioned that the fee would rise and fall with the price of gasoline. Prices stabilized below the $1.11 AWP and the threshold was never reached until prices began rising very quickly in the early to mid 2000's. The first indexed increase in the tax occurred in 2004 at one penny per gallon. The fee has continued to increase 10% each year thereafter.

While the statute always provided for the fee to fall if the AWP fell, once the AWP passed the threshold of 1.10 it continued to rise and was always significantly higher than the floor. The danger of gas prices and the AWP dropping back to the 1.11 level was minimal. The floor was raised by the General Assembly in 2005 and 2006 to permanently capture the first two increases (2.1 cents) with the intent of dedicating the increase to debt service on highway bond issues.

Over the past several years the increase in the AWP has slowed to the point that the motor fuel user fee could begin to fall or fluctuate from quarter to quarter as the price of gas fluctuates, impacting Road Fund revenues. As our Road Fund budget and six year plan is based on revenue projections 2 years in advance, any reduction in revenues could have a dramatic impact on new construction and maintenance.

The General Assembly has recognized the importance of maintaining an adequate highway system in Kentucky. For the past many biennium's, the General Assembly has seen the importance of having not only current highways maintained but to keep equal or ahead of surrounding states, growth in lane miles and new roadways such as by-passes and widening of roadways for increased visibility and safety have been at the forefront of an approved Transportation Plan as submitted by the Transportation Cabinet but then digested and revised as the General Assembly proved to be worth. As a result the Road Plan is now a separate document of legislation reviewed and approved by the General Assembly. The importance of a General Assembly Road Plan was further noted in 2009 when the General Assembly move the wholesale price floor to the current level of $1.786 per gallon to protect the revenue stream that was needed to provide the funds for the approved plan. For the record, the current average wholesale price for which the revenue stream has been projected for the design and construction of the approved Road Plan is $2.616 per gallon, leaving more than 80 cent per gallon exposed to risk. This would equate to 7.4 cent per gallon of excise fee worth approximately $200 million to the Road Fund.

Bonded Indebtedness Exposure:

There has been no dedication of revenues for the current bonding programs passed by the 2009 and 2010 General Assembly and included in the Road Plan. Those programs are totally funded by the revenue to be generated by the existing Road Fund revenues. The construction of the projects from those approved programs is occurring now and will continue into the next biennium. That level of indebtedness should be considered to receive dedicated funding or some sort of legislation to assure the citizens that the road fund can pay for that debt service.

Additionally, since the motor fuels excise fee's are revenue shared with counties and municipalities, they expect that the current budgeted amount they are receiving from the Road Fund will continue. No one is budgeting for a decrease but that could occur unless the average wholesale price is moved from the current floor of $1.786 cents to a more current 2013 or at least a 2012 level. We encourage the Tax Commission to recommend that the average wholesale price be moved up to the year beginning the new biennium for the development of each new budget cycle.

Trend Downward in Gallons Sold

As in most states, gasoline sales have trended downward the past 10 years. Gasoline sales have fallen from 2.2 billion to 2.1 billion annually in the past 8 years. This is due to the increase in more fuel-efficient vehicles in the fleet mandated by higher CAFÉ standards at the federal level and higher fuel prices created by higher crude oil prices. Our Road fund would have been in deep trouble had the index not been in place on the motor fuel excise fee. The other major contributor to the Road Fund is the Motor Vehicle Usage tax (sales tax on new and used vehicles) which increased during the strong economic times of the late 90's and early 2000, but dropped significantly after the recession in 2007 and has not fully recovered, even today.

Potential for Electric Vehicles and Other Vehicles

Hybrids and all-electric vehicles continue to increase both technologically and in popularity. Electricity used to fuel a vehicle, of course, pays no motor fuel excise fee, but, of course, these vehicles use the same roads as do gasoline vehicles. Moreover, it is clear that global automakers are determined to "hedge their bets" on these vehicles using alternative forms of energy. Within 3 to 5 years, vehicles powered by electricity, natural gas, hydrogen, and even compressed air will be broadly for sale in Kentucky, because right now, they are available on a limited basis.

These vehicles are not proto-types or clay models. They will be coming down the assembly line, and coming to our hometowns. These vehicles should not be demonized or feared, either. Our challenge is to determine how they will pay their fair share of a user fee.

Recommendations

The gasoline index, alone, cannot continue to shore up the Road Fund. At some point it will become somewhat flat, as either usage or price levels off. Gasoline sales will continue to trend down as highly-efficient vehicles take over the fleet. We also must develop a way to allow non-gasoline vehicles to pay their fair share for their use of our streets, roads, highways and bridges.

KBT urges the Blue Ribbon Task Force on Tax Reform to recommend to the General Assembly that they permanently freeze all of the increased amounts with the exception of the current year increase to add stability to the Road Fund, and insure the bonded indebtedness is adequately covered, without reductions in the current year construction and accounts.

Thank you for your public service, and for holding these important public hearing across the Commonwealth.